IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Pooran Ram. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1113/2004.

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Date of Order: January 22, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.H.S. Sandhu, for the petitioner.
Mr. Rameshwar Dave, Public Prosecutor for the State.
Mr. Y.P. Khelari, for the non-petitioner No. 2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 20-9-2004 passed by the Additional Sessions Judge No.2, Sri Ganganagar (for short, "the Revisional Court" hereinafter), whereby the revision petition filed by the petitioner against the order dated 16-12-2003 passed by the Sub-Divisional Officer, Sri Ganganagar (for short, "the Executive Magistrate" hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the Executive

Magistrate as well as the Revisional Court.

It appears that the petitioner and non-petitioner No.2 are brother and sister. Both claimed the share in the property of their father. From the record and the evidence produced before the Executive Magistrate, it was established that at the time of taking possession over the land by the Receiver, as also from the Daily Diary EX.1 maintained by the Patwari, and from the evidence on record, it has been established that the agricultural land bearing Khasra No.74/181 Muraba No. 18 Kila No. 16 to 19 measuring 4 Bigha; Kila No. 13 to 25 measuring 3 Bigha and Khasra No. 75/181 Muraba No.19 Kila No.20 measuring 7 Bigha 10 Biswas are in possession of non-petitioner No.2 Smt. Kani Devi W/o Pola Ram; and Khasra No.75/181 Kila No.17 to 19 measuring 17.10 Bighas is in possession of petitioner Pooran Ram. Thus, the Executive Magistrate came to the conclusion that the petitioner and non-petitioner No.2, who are brother and sister, are in possession of the land each measuring 7.10 Bigha and accordingly held the parties to be in possession to the extent of land in their possession. On re-appreciation of the evidence, the Revisional Court did not find any error in the order of the Executive Magistrate.

In my view, both the courts below concurrently found that the petitioner and non-petitioner No.2 are in possession of the land each measuring 7.10 Bigha. However, it is made clear

that any observations made by the Executive Magistrate, the Revisional Court or this Court will not come in the way for getting the rights decided by the parties from the Revenue Court.

With these observations, the criminal miscellaneous petition is dismissed. Stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs